

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHARON BRIDGEWATER,

Plaintiff,

v.

HAYES VALLEY LIMITED PARTNERSHIP,
et al.,

Defendants.

No. C 10-3022 CW

ORDER DENYING
PLAINTIFF'S
MOTIONS TO STAY
PROCEEDINGS, RE-
OPEN CASE, FILE
AMENDED COMPLAINT,
EXTEND TIME TO
SERVE AND FOR
RELIEF FROM
JUDGMENT AND
DENYING MOTION FOR
SANCTIONS

On February 13, 2012, Plaintiff Sharon Bridgewater moved to stay proceedings, to re-open her case, to file an amended complaint, to obtain relief from judgment and to extend time to serve the United States Department of Justice with a sealed complaint. Docket No. 105. Defendants Shawn Bankson, Jane Creason and Kimball, Tirey & St. John LLP (together, KTS Defendants), and Hayes Valley Apartments II, L.P., erroneously sued as Hayes Valley Limited Partnership, have filed oppositions. Defendant Hayes Valley Apartments II, L.P. (Hayes Valley Apartments) moves for sanctions against Plaintiff. Docket No. 110. Plaintiff has not filed an opposition to this motion. These motions were taken under consideration and decided on the papers. Having considered the papers filed by the parties, the Court

1 denies Plaintiff's motions and denies Hayes Valley Apartments'
2 motion for sanctions.

3 I. Plaintiff's Motions

4 On February 11, 2011, the Court issued an order granting
5 Defendants' motions to dismiss and for an order declaring
6 Plaintiff a vexatious litigant. The Court also entered a pre-
7 filing order. (Docket No. 97). The pre-filing order provided
8 that, if Plaintiff filed a new complaint concerning the unlawful
9 detainer action in the state case, Hayes Valley Limited
10 Partnership v. Bridgewater, No. CUD-06-617995, it would not be
11 filed by the Clerk of the Court. (Docket No. 98). On December 6,
12 2011, the Court denied Plaintiff's motion for reconsideration and
13 to vacate or alter the judgment. (Docket No. 102).

14 Although the instant motions are not a new complaint, they
15 are an attempt to relitigate the issues already decided by this
16 Court. Accordingly, all of the motions filed by Plaintiff on
17 February 13, 2012 are denied. Plaintiff may not file motions in
18 this closed case.

19 II. Defendant's Motion for Sanctions

20 Defendant Hayes Valley Apartments moves for sanctions under
21 Rule 11 of the Federal Rules of Civil Procedure and requests that
22 the Court order Plaintiff to pay its legal fees in the amount of
23 \$1,572.50, incurred in opposing Plaintiff's motions. Rule 11(b)
24 provides that "by presenting to the court a pleading, written
25 motion, or other paper--whether by signing, filing, submitting, or
26 later advocating it--an attorney or unrepresented party certifies
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1 that to the best of the person's knowledge, information, and
2 belief, formed after an inquiry reasonable under the
3 circumstances,--

4 (1) it is not being presented for any improper purpose, such
5 as to harass or to cause unnecessary delay or needless
6 increase in the cost of litigation;

7 (2) the claims, defenses, and other legal contentions therein
8 are warranted by existing law or by a nonfrivolous argument
9 for extending, modifying, or reversing existing law or for
10 establishing new law;

11 (3) the factual contentions have evidentiary support . . ."
12 Fed. R. Civ. P. 11(b).

13 Under Rule 11(c), a court may impose sanctions on attorneys,
14 law firms or parties that have violated Rule 11(b) or are
15 responsible for such a violation. The standard for determining
16 whether a pleading, motion or other paper is either frivolous or
17 interposed for an improper purpose is one of objective
18 reasonableness at the time of the attorney's or party's signature.
19 Conn v. Borjorquez, 967 F.2d 1418, 1421 (9th Cir. 1992) (citing
20 Woodrum v. Woodward County Okla., 866 F.2d 1121, 1127 (9th Cir.
21 1989)). In assessing whether the filing of a particular paper was
22 frivolous under Rule 11, the court should not consider the
23 ultimate failure on the merits or the subjective bad faith of the
24 signer, but rather whether the position taken was "legally
25 unreasonable" or "without factual foundation." Zaldivar v. City
26 of Los Angeles, 780 F.2d 823, 831 (9th Cir. 1986) overruled on
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1 other grounds by Cooter & Gell v. Hartmarx Corp., 496 U.S. 384,
2 399-405 (1990).

3 Plaintiff previously has filed a motion to amend her
4 complaint (docket no. 89), a motion for reconsideration of
5 previous orders (docket no. 86) and a motion for an order to show
6 cause re: reconsideration (docket no. 103), all of which were
7 denied by the Court (docket no. 97 and 102). Furthermore,
8 Plaintiff filed the February 13, 2012 motions after the case
9 closed. Thus, the February 13, 2012 motions are legally
10 unreasonable and without legal merit. However, the Court will not
11 award sanctions at this point.

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13 Because there is a pre-filing order against Plaintiff, she
14 cannot file another complaint against Defendants based upon the
15 state unlawful detainer action underlying this case. If Plaintiff
16 serves Defendants with a new complaint, they are not required to
17 answer it until it has been reviewed by the Court. Furthermore,
18 Defendants are not required to respond to any further motions that
19 Plaintiff files in this case.

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21 Plaintiff may not file motions in this closed case or file
22 lawsuits litigating the same issues. If Plaintiff persists in
23 these filings, she may be subject to sanctions in the future.

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CONCLUSION

Based on the foregoing, the Court denies Plaintiff's motions and Defendant Hayes Valley Apartments' motion for sanctions.

IT IS SO ORDERED.

Dated: 7/2/2012


CLAUDIA WILKEN
United States District Judge